

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
DENNIS STREETER ) CASE NO. 05-66419-jpk  
 ) Chapter 7  
Debtor. )

ORDER REGARDING MOTION OF NITCO HOLDING CORPORATION FOR EXTENSION OF  
TIME TO OBJECT TO DISCHARGE ("MOTION")

\_\_\_\_\_ The Motion was filed on March 31, 2008. The Motion is ambiguous. In part, the Motion appears to relate to extension of the deadline for filing a complaint objecting to discharge of the debtor pursuant to Fed.R.Bankr.P. 4004(a). At the same time, in paragraph 2 of the Motion, reference appears to be made to an objection to dischargeability of a particular debt, subject to Fed.R.Bankr.P. 4007. The authorities cited in paragraph 3 of the Motion relate to the former concept rather than the latter.

The Court determines that it is unnecessary for a creditor who has filed a timely complaint pursuant to Fed.R.Bankr.P. 4007 with respect to dischargeability of a particular debt in a Chapter 11 case involving an individual debtor, to file another adversary proceeding with respect to exception from discharge of that indebtedness after the Chapter 11 case is converted to a case under Chapter 7. The Court construes Fed.R.Bankr.P. 1019(2) to provide a new filing period in the converted Chapter 7 case, which would allow a creditor who did not file a timely complaint in the Chapter 11 case to file a complaint in the Chapter 7 case. However, when a complaint has been timely filed in the Chapter 11 case, there is no logical reason to construe that Rule to require a creditor in the position of Nitco Holding Corporation to file a redundant adversary proceeding in the Chapter 7 case. Thus, Adversary Proceeding No. 06-6159 is effective to present to the Court issues regarding exception from discharge of the indebtedness addressed by that complaint without the need to file another adversary proceeding subsequent to conversion of the Chapter 11 case to a case under Chapter 7.

However, due to the ambiguity in the Motion, it may be that the creditor is actually seeking an extension of time pursuant to Fed.R.Bankr.P. 4004(b) to object to entry of discharge of the debtor generally. If that is the case, the Motion fails to comply with the requirements of N.D.Ind.L.B.R. B-4004-1.

IT IS ORDERED that the assertion of an exception to discharge of the creditor's debt pursuant to 11 U.S.C. § 523(c)(1)/Fed.R.Bankr.P. 4007 in Adversary Proceeding No. 06-6159 shall be an assertion of exception from discharge of that indebtedness in the debtor's converted Chapter 7 case, without any requirement on the part of the creditor to initiate a new adversary proceeding with respect to that matter subsequent to conversion of the debtor's Chapter 11 case to a case under Chapter 7.

IT IS FURTHER ORDERED that to the extent that Nitco Holding Corporation seeks to obtain an extension of the deadline for the filing of a complaint objecting to grant of the debtor's Chapter 7 discharge, that creditor shall file a motion amending the Motion within 15 days from the date of entry of this order which conforms to the requirements of N.D.Ind.L.B.R. B-4004-1. If that motion is filed in proper form, the date of its filing shall relate back to the date of the filing of the Motion; if no amended motion is filed, the court will deem the creditor to have intended to solely address matters relating to 11 U.S.C. § 523(c)(1)/Fed.R.Bankr.P. 4007.

Dated at Hammond, Indiana on April 25, 2008.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee